

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Thurman Van Lilly,	)	C/A No. 2:06-1138-JFA-RSC
	)	
Plaintiff,	)	
	)	<b>ORDER</b>
v.	)	
	)	
Harvey Knox; John Allen; Tracy Lewis;	)	
Lane Cribb; Matthew Modica;	)	
Linda Canteen; and Tara S. Taggart,	)	
	)	
Defendants.	)	
_____	)	

The *pro se* plaintiff, Thurman Van Lilly, is an inmate at the Lieber Correctional Institution of the South Carolina Department of Corrections (“SCDC”). He initiated this action pursuant to 42 U.S.C. § 1983 contending, among other things, that the defendants conspired to violate his constitutional rights when they arrested the plaintiff on April 15, 2003. The defendants include the Sheriff of Georgetown County, one of his deputies, two of his investigators, the local solicitor, the victim’s advocate, and another individual, Tara S. Taggart.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a Report and Recommendation wherein he suggests that this court should grant defendants’ motion to

---

<sup>1</sup> The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

dismiss.<sup>2</sup> The Magistrate Judge opines that the plaintiff's claims have not accrued and the action must be dismissed pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994). The Magistrate Judge further notes that the plaintiff has filed the same claims in a now-pending habeas corpus petition under 28 U.S.C. § 2254. *See* C/A 2:07-999-JFA-RSC (D.S.C.).

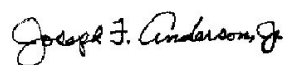
The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation and has done so in a ten-page objection memorandum with numerous attachments relating to the state criminal matter at issue. The Magistrate Judge is unquestionably correct that *Heck* bars this action at the present time. For this reason, the plaintiff's objections are all overruled.

After a careful review of the record, the applicable law, the Report and Recommendation, and the objections thereto, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and this action is dismissed without prejudice and plaintiff's motions for judgment on the pleadings and to strike are dismissed as moot.

IT IS SO ORDERED.

January 24, 2008  
Columbia, South Carolina



Joseph F. Anderson, Jr.  
United States District Judge

---

<sup>2</sup> An order was issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4<sup>th</sup> Cir. 1975) notifying plaintiff of the summary dismissal procedure and possible consequences if he failed to adequately respond to the motion for summary judgment. Plaintiff did respond to the motion.